



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR-2022-0785, FRL-10210-02-R2]

Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Enhanced Inspection and Maintenance Program; Diesel Opacity Cutpoints

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plan (SIP) submitted by the New Jersey Department of Environmental Protection (NJDEP) in 2009 for New Jersey's motor vehicle inspection and maintenance (I/M) program. This final rule will maintain consistency between the State adopted rules and the federally approved New Jersey SIP. The EPA proposed to approve this rule on October 20, 2022, and received no comments.

DATES: This final rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action identified by Docket ID Number EPA-R02-OAR-2022-0785 at <https://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

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I. What is the background for this action?

The EPA is approving revisions to the New Jersey State Implementation Plan (SIP), submitted by New Jersey on July 20, 2009, pertaining to New Jersey's motor vehicle inspection and maintenance (I/M) program. The SIP revision consists of rules and rule amendments to the New Jersey Department of Environmental Protection's rules at N.J.A.C. Title 7, Chapter 27, Subchapter 14, titled "Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles (Diesel-Powered Motor Vehicle Inspection and Maintenance Program)," at sections 14.2, 14.4 and 14.6, and related amendments to the "Sampling and Analytical Procedures" at N.J.A.C. Title 7, Chapter 27B, Subchapter 4, titled "Air Test Method 4: Testing Procedures for Diesel-Powered Motor Vehicles," at section 4.5. The 2009 submittal consisted of rules and rule amendments regarding diesel opacity cutpoints, visible smoke standards for diesel-powered trucks and buses, and exemptions for emergency vehicles. A subsequent SIP revision for the diesel opacity program was approved by EPA and supersedes the July 20, 2009, SIP revision submittal. *See 83 FR 21174* (May 9, 2018).

The specific details of New Jersey's SIP submittal and the rationale for the EPA's approval action are explained in the EPA's proposed rulemaking and are not restated in this final action. For this detailed information, the reader is referred to the EPA's October 20, 2022, proposed rulemaking. *See 87 FR 63743* (October 20, 2022).

II. What comments were received in response to the EPA's proposed action?

The EPA provided a 30-day review and comment period for the October 20, 2022, proposed rule. The comment period ended on November 21, 2022. EPA received no comments on the proposed action.

III. What action is the EPA taking?

The EPA is taking final action to approve the rules and rule amendments to the New Jersey Department of Environmental Protection's rules submitted in the July 20, 2009, SIP revision for N.J.A.C. 7:27-14 and 7:27B-4, with the acknowledgement that this program is superseded by the current New Jersey diesel program that was approved by the EPA on May 9, 2018. *See 83 FR 21174.*

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL**

REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 et seq.

Lisa Garcia,
Regional Administrator,
Region 2.

[FR Doc. 2023-04816 Filed: 3/8/2023 8:45 am; Publication Date: 3/9/2023]